

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

SHAWN DOTSON

Claimant

VS.

EXCEL CORPORATION

Respondent
Self-Insured

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Docket No. 206,897

ORDER

Claimant appeals from a preliminary hearing Order dated March 26, 1996 entered by Administrative Law Judge Jon L. Frobish.

ISSUES

Claimant describes the issues as follows:

- (1) Whether claimant suffered an accidental injury.
- (2) Whether claimant's injury arose out of and in the course of his employment.
- (3) Whether notice was given.
- (4) Whether claim was timely made.
- (5) Whether certain defenses apply.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs of the parties, the Appeals Board finds:

The Appeals Board has jurisdiction to review a preliminary order only if it is alleged that the Administrative Law Judge exceeded his or her jurisdiction. K.S.A. 44-551, as amended by S.B. 649 (1996). A challenge to one of the findings listed in K.S.A. 44-534a, as amended by S.B. 649 (1996), is expressly considered to be an allegation that the order exceeded the Administrative Law Judge's jurisdiction. See K.S.A. 44-534a. Claimant alleges all of the jurisdictional findings enumerated in the statute to be issues in this case. However, neither the Order Denying Compensation entered by the Administrative Law Judge nor the record indicate which, if any, of those issues he relied upon in deciding this case.

At the preliminary hearing claimant testified and offered numerous medical and employment records. The Administrative Law Judge entered an Order stating only that the

request for temporary total disability compensation and medical treatment should be denied.

The denial of benefits in this case does not give adequate basis for determining whether the Appeals Board has jurisdiction to consider the appeal. The case must, therefore, be remanded with directions to specify the basis for the decision denying benefits.

The Appeals Board recognizes the Act does not give express direction to the Administrative Law Judge requiring a statement of the basis for the decision. However, when benefits are denied and there remains a potential that those benefits were denied because of a finding not subject to review by the Appeals Board, the Appeals Board can not perform its obligations under the Act without an indication by the Administrative Law Judge as to the basis for his or her decision. In the absence of such an indication, the Appeals Board has no alternative but to remand the claim directing the Administrative Law Judge to add to the Order a brief statement of the finding or findings which acted as the basis for the decision.

WHEREFORE, the Appeals Board finds that the above-referenced appeal should be and the same is hereby remanded to Administrative Law Jon L. Frobish with a request that the Administrative Law Judge state what finding or findings were the basis for the decision denying medical benefits.

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER _____

c: Michael L. Snider, Wichita, KS
D. Shane Bangerter, Dodge City, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director